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10/589,155	05/04/2007	Claus Pedersen	P3480US00	6810
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EXAMINER				
LEE, CHUN KUAN				
ART UNIT		PAPER NUMBER		
2181				
NOTIFICATION DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

# Office Action Summary

**Application No.**

10/589,155

**Applicant(s)**

PEDERSEN ET AL.

**Examiner**

Chun-Kuan Lee

**Art Unit**

2181

**Period for Reply** -- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 September 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1,3-10,12-28,34-41 and 43-49 is/are pending in the application.
- 5a) Of the above claim(s) 17-28,34-40,43 and 44 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1,3-10,12-16,41 and 45-49 is/are rejected.
- 8) ☒ Claim(s) 5 is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 19 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-342)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### CONTINUED EXAMINATION UNDER 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/06/2011 has been entered.

### RESPONSE TO ARGUMENTS

2. Applicant's arguments filed 09/06/2011 have been fully considered but they are not persuasive. Currently, claims 2, 11, 29-33 and 42 are canceled, claims 17-28, 34-40 and 43-44 are withdrawn, and claims 1, 3-10, 12-16, 41 and 45-49 are pending for examination

3. In response to applicant's arguments with regard to the independent claims 1, 41 and 49 rejected under 35 U.S.C. 103(a) that the combination of the references does not teach/suggest the claimed features

“... receiving at an electronic device an executable command **specifying execution of an unidentified executable** on first data **without specifying which executable should be used** for the first data ...” (claim 1);

"... receiving an executable command **specifying execution of an unidentified executable** on first data **without specifying which executable should be used** for the first data ..." (claim 41); and

"... receive an executable command **specifying execution of an unidentified executable** on first data **without specifying which executable should be used** for the first data ..." (claim 49); wherein the claims features corresponds to the received executable command specifies execution of an unidentified executable on first data but does not specify which executable is to be used for the first data; wherein, the unidentified executable will be identified later, after a determination of the first data and a content type of the first data from metadata and determining to identify an executable using the content type; and the combination of the references does not teach the above claimed features because:

- Szeto's Fig. 12A illustrates that the initial command, i.e., the IM message, does identify an application that will execute some unidentified executable and, thereby, does specify "**which executable should be used for the first data**"; and
- to whatever extent Szeto's IM message may be interpreted as a command and Szeto's the application type (e.g., movie trailer, cartoon, game, advertisement) may be interpreted as a content type of the data, which it identifies, such identification results in the supporting application that will be employed to render the application type; therefore, it is clear that the IM message

(command) in Szeto does specify which executable should be used (the supporting application);

applicant's arguments have fully been considered, but are not found to be persuasive.

The examiner respectfully disagrees applicant's above arguments, because base on the applicant's clarification during the preceding interviews dated 10/5/2010 and 06/19/2010:

"... The interview mainly focused on getting a clear understand of applicant's claimed invention, wherein the examiner requested the applicant to provide a real world example reflecting the heart/core of applicant's invention, and applicant in response, provided the following explanation:

A real world example would be a device receiving a data and a metadata for the data, utilized the received metadata in combination with a tree architecture to acquire a content type, and utilizing the content type to determine a corresponding executable for the data.

In response, the examiner inquired how is the utilization of the tree architecture to accomplish the functionality of identifying the executable germane to applicant's invention, and applicant responded that the utilization of the tree architecture for identifying the executable is not special, it is another/different way/option/method for identifying the executable and that no one ever thought of identifying the executable in this manner; and the examiner further inquired if the use of the tree architecture for identifying the executable is better or more efficient then how it is accomplished conventionally via metadata, and applicant responded that applicant's invention is not necessary better or more efficient, but applicant's invention is different from convention methodology.

The examiner then requested for further clarification as to what is applicant's invention, and in response, applicant stated that the invention is in the claimed language which corresponds to a different way/option/method for identifying the executable.

In summary, based on applicant's explanation above and the interview dated 06/19/2010:

"... The interview focused on getting a better understanding of the instant invention, wherein the examiner provided the following real world example for the instant invention:

Having a mobile device receiving data such as a word document, wherein the received data include metadata, and the mobile device determines to initiate the word program to read the received word document based on examining the received

metadata. That is the invention is associated with utilizing the received data's metadata to determine what program/executable is call upon to render the received data ...,"

it is the examiner's best understanding that the core/heart of applicant's invention for utilizing the tree architecture to accomplish the functionality of identifying the executable is functionally equivalent to the utilization of the metadata for identifying the executable, because applicant explained that it is not special to use the tree architecture for identifying the executable as applicant's invention is providing another/different way/option/method for accomplishing the same functionality as the methodology associated with the conventional metadata ...,"

it is the examiner's current best understanding that applicant's above claimed features corresponding utilizing the metadata to specify execution of an unidentified executable without specifying which executable should be used; wherein Szeto utilizes an identifier to specify execution of an unidentified executable (e.g. supporting application) without specifying which executable should be used (Fig. 12A; col. 1, ll. 55-58; col. 7, ll.48-53; and col. 12, l. 66 to col. 13, l. 16); to further clarify, Szeto teaches specifying execution of an unidentified executable (e.g. supporting application) on first data (e.g. the received whole IM message include data that need supporting application to render the whole IM message) without specifying which executable should be used for the first data (e.g. the rendering of the whole IM message with the corresponding IM application and the supporting application, wherein the whole IM message include data that need the supporting application, in addition to the IM application, that is identified via an identifier; more specifically, both applicant's metadata and Szeto's identifier are data about the received data that are utilized to determine which additional executable is needed); in summary, Szeto's identifier functionality does teach/suggest applicant's above claimed features. In summary, the examiner relied on the references as following for the teaching/suggesting of the above claimed feature:

Rao teaches receiving at an electronic device an executable command specifying execution of an identified executable on first data (e.g. command to render the first data via corresponding executable), but Rao does not teach specifying execution of an unidentified executable on the first data without specifying which executable should be used for the first data;

Szeto teaches specifying (e.g. via the identifier) execution of an unidentified executable on the first data without specifying which executable should be used for the first data and having the benefit of having a reliable system and method for a user to execute and control application (Szeto, col. 2, ll. 30-33); therefore, by combining Szeto's identifier functionality into Rao's executable command to render the first data, the resulting combination of the references further teaches receiving at the electronic device the executable command specifying (e.g. via the identifier) execution of an unidentified executable on first data without specifying which executable should be used for the first data, wherein the resulting combination of the references provide the benefit of having a reliable system and method for a user to execute and control application as disclose by Szeto.

Additionally, please note that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). And as explained above, the examiner is relying on the combination of the references, and not on Szeto along, for the teaching/suggestion of applicant's claimed features.

4. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, the motivations is to have a reliable system and method for a user to execute and control application (Szeto, col. 2, ll. 30-33).

5. In response to applicant's argument that Szeto is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Szeto is reasonably pertinent to the particular problem with which the applicant was concerned because base on the examiner's current best understanding, applicant is solving the particular problem by using the metadata to accomplish the functionality of specifying execution of an unidentified executable without specifying which executable should be used, and Szeto is using an identifier/metadata to accomplish the same



functionality. Additionally, Szeto suggest the utilization of XML protocol (Szeto, col. 7, ll.48-53), wherein Rao suggest that that XML protocol adapted easily to the SyncML standard (Rao, col. 6, ll. 49-61)

#### **I. OBJECTION TO THE CLAIM**

6. Claim 5 is objected to because of the following informalities:

in claim 5, line 2, "... an Exec command, and ADD command, a ..." should be replaced with -... an Exec command, ADD command, a ...-.

Please note that the request for the replacements as stated above is for the purpose to improve the clarity of the claim language. Appropriate correction is required.

#### **I. REJECTIONS BASED ON PRIOR ART**

##### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-10, 12-16, 41 and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al. (US Patent 6,978,453) in view of "SyncML Meta-Information DTD" and Szeto (US Patent 7,188,143).

8. As per claim 1, Rao teaches a method comprising: receiving at an electronic device (Fig. 1, ref. 107) an executable command (e.g. update command) specifying execution of an executable on first data (e.g. as execution of the first data is associated with firmware update data); utilizing, at the electronic device, metadata protocol associated with the first data; determining to identify at the electronic device a property of the first data (e.g. as the received command is determined to identify by the electronic device to have the property associated with firmware updating); and determining to operate on the first data using an executable (e.g. module) (e.g. as the module would operate on the firmware update data via downloading and updating processes) (Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19 and col. 8, l. 25 to col. 12, l. 19).

Rao does not teach the method comprising:

specifying an unidentified executable without specifying which executable should be used;

determine content type from the metadata for the first data;

identifying an executable using the content type; and operating via the identified executable.

SyncML Meta-Information DTD" teaches the metadata indicating a content type (Sec. 3-5 on pp. 5-12), as it is well known that metadata is data/information about data and SyncML have meta-information such as parameter or attributes that are about type or content of data; therefore, metadata may be utilized in association for determining the content type of data.

Szeto teaches a system and method comprising:

specifying (e.g. via an identifier) an unidentified executable (e.g. support application) without specifying which executable should be used (Fig. 12A; col. 1, ll. 55-58; col. 7, ll.48-53; and col. 12, l. 66 to col. 13, l. 16), as the supporting application is not identified by an initial command for IM message, wherein the initial command would only identify an application for rendering the IM message, and only upon further examination is the need for the supporting application determined/identified via application type identifier; therefore, by combining the determination/identifying the need of the supporting application with Rao's mobile phone/PDA/electronic device communicating over network via XML protocol including the first data, the resulting combination of the references further teaches the above claimed feature;

determine content type from the metadata for the first data; identifying an executable using the content type; and operating via the identified executable (Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; and col. 12, l. 66 to col. 13, l. 16), by combining the determination/identifying the need of supporting application with Rao's mobile phone/PDA/electronic device communicating over network via XML protocol including the first data and SyncML Meta-Information DTD's metadata and content type, the resulting combination of the references is functionally equivalent to the above claimed feature in association with determining/identifying the executable to operate on the first data utilizing the application type identifier/metadata indicating content type (e.g. both the application type identifier and the metadata indicating content type are data/information about data, wherein the application type identifier is data/information

about data for determining/identifying the corresponding executable); wherein the above functional equivalency to determining the executable is based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010.

It would have been obvious for one of ordinary skill in this art, at the time of invention was made to include SyncML Meta-Information DTD's content type and metadata and Szeto's identification of the executable into Rao's operation on the first identified data for the benefit of properly operating in accordance SyncML standard as in Rao's system and also for the benefit to the having a reliable system and method for a user to execute and control application (Szeto, col. 2, ll. 30-33) to obtain the invention as specified in claim 1.

9. As per claim 3, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising wherein the command contains the metadata of the first data, and the metadata includes an identifier of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

10. As per claim 4, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 3 as discussed above, where Rao further teaches the method comprising wherein the identifier identifies a node of a hierarchical nodular data structure (e.g. tree data structure) stored at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19).

11. As per claim 5, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 4 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising wherein the command is a command selected from the group consisting of an Exec command, Add command, a Copy command, a Delete command, a Get command, and a Replace command, and the identifier is a uniform resource identifier contained within a source element corresponding to the node in the hierarchical nodular data structure (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

12. As per claim 6, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao and Szeto further teach the method comprising wherein the command is received as extensible markup language code (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16).

13. As per claim 7, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 6 as discussed above, where Rao further teaches the method comprising wherein the command is a SyncML command (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; and col. 8, l. 25 to col. 12, l. 19).

14. As per claim 8, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method further comprising determining to parse a content type of the first data based upon a node, wherein the content type of the first data is stored at the electronic device according to the node (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the

interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

15. As per claim 9, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 6 as discussed above, where Rao further teaches the method comprising wherein the content type of the first data is stored at a node of a hierarchical nodular data structure (e.g. tree data structure) (Rao, col. 3, ll. 52-63; col. 6, l. 49 to col. 7, l. 19; col. 8, ll. 25-34 and col. 11, l. 48 to col. 12, l. 19), as the data would be store in the node of the tree data structure.

16. As per claim 10, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 9 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the node is a leaf node that identifies the content type of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

17. As per claim 12, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the content type is determined by at least one of the value of a format element and the value of a type element associated with the first data (SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16).

18. As per claim 13, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising determining to associate a plurality of different executables (e.g. different supporting applications for movie trailer, game, animation cartoon, advertisement, flash presentation) with each of a plurality of different content types (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features, as each different content types have the corresponding supporting application.



19. As per claim 14, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the executable is identified using the content type and a look-up table (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is identified.

20. As per claim 15, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 13 as discussed above, where Rao and Szeto further teach the method comprising wherein the plurality of different executables are stored in the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), as the electronic device would have the corresponding supporting application for operating the first data.

21. As per claim 16, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD

and Szeto further teach the method comprising before receiving the command specifying execution of the first data, determining to create or update a hierarchical nodular data structure (e.g. tree data structure) at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features, as the executable is determined and as the tree data structure is created prior to the execution of the command.

22. As per claims 41 and 49, independent claims 41 and 49 are rejected base on the same rational as the rejection for independent claim 1, as claim 41 is a computer readable storage medium and claim 49 is an apparatus implementing the method of claim 1.

23. As per claim 45, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the command excludes information of the content type of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19;

SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined.

24. As per claim 46, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 16 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising before receiving the command specifying execution of the first data, determining to create the node or a sub-tree including the node in the hierarchical nodular data structure at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined and as the tree data structure is created prior to the execution of the command.

25. As per claim 47, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 12 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the executable is identified using a look-up table and the at least one of the value of the format element and the value of the type element (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined.

26. As per claim 48, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the first data includes media content data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined.

## **II. CLOSING COMMENTS**

### **Conclusion**

#### **a. STATUS OF CLAIMS IN THE APPLICATION**

The following is a summary of the treatment and status of all claims in the application as recommended by **M.P.E.P. 707.07(i)**:

##### **a(1) CLAIMS REJECTED IN THE APPLICATION**

Per the instant office action, claims 1, 3-10, 12-16, 41 and 45-49 have received a first action on the merits and are subject of a first action non-final.

#### **b. DIRECTION OF FUTURE CORRESPONDENCES**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun-Kuan (Mike) Lee whose telephone number is (571) 272-0671. The examiner can normally be reached on 8AM to 5PM.

### **IMPORTANT NOTE**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alford Kindred can be reached on (571) 272-4037. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chun-Kuan Lee/  
Primary Examiner  
Art Unit 2181  
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